

Commission a petition for reconsideration of the opinion and order, setting forth the relief desired and the grounds in support thereof. Any petition filed under this section must be confined to new questions raised by the opinion or order and concerning which the petitioner had no opportunity to argue before the Commission. The filing of a petition for reconsideration shall not operate to stay the effective date of the Commission's order.

(b) *Stay pending judicial appeal*—(1) *Application for stay.* Within 15 days after service of a Commission opinion and order imposing upon any party any of the sanctions listed in §§10.1(a) through 10.1(e), that party may file an application with the Commission requesting that the effective date of the order be stayed pending judicial review. The application shall state the reasons why a stay is warranted and the facts relied upon in support of the stay. Any averments contained in the application must be supported by affidavits or other sworn statements or verified statements made under penalty of perjury in accordance with the provisions of 28 U.S.C. 1746.

(2) *Standards for issuance of stay.* The Commission may grant an application for a stay pending judicial appeal upon a showing that:

(i) The applicant is likely to succeed on the merits of his appeal;

(ii) Denial of the stay would cause irreparable harm to the applicant; and

(iii) Neither the public interest nor the interest of any other party will be adversely affected if the stay is granted.

(3) *Civil monetary penalties and restitution.* Notwithstanding the requirements set forth in paragraph (b)(2) of this section, the Commission shall grant any application to stay the imposition of a civil monetary penalty or an order to pay a specific sum as restitution if the applicant has filed with the Proceedings Clerk a surety bond guaranteeing full payment of the penalty or restitution plus interest in the event that the Commission's opinion and order is sustained or the applicant's appeal is not perfected or is dismissed for any reason and the Commission has determined that neither the public interest nor the interest of any other party

will be affected by granting the application. The required surety bond shall be in the form of an undertaking by a surety company on the approved list of sureties issued by the Treasury Department of the United States, and the amount of interest shall be calculated in accordance with 28 U.S.C. 1961(a) and (b), beginning on the date 30 days after the Commission's opinion and order was served on the applicant. In the event the Commission denies the applicant's motion for a stay, the Proceedings Clerk shall return the surety bond to the applicant.

(c) *Response.* Unless otherwise requested by the Commission, no response to a petition for reconsideration pursuant to paragraph (a) of this section or an application for a stay pursuant to paragraph (b) of this section shall be filed. The Commission shall set the time for filing any response at the time it asks for a response. The Commission shall not grant any such petition or application without providing other parties to the proceeding with an opportunity to respond.

[41 FR 2511, Jan. 16, 1976, as amended at 63 FR 55795, Oct. 19, 1998; 63 FR 68829, Dec. 14, 1998; 64 FR 30903, June 9, 1999]

§ 10.107 Leave to adduce additional evidence.

Any time prior to issuance of the final decision the Commission may, upon its own motion or upon application in writing by any party, after notice to the parties and an opportunity for them to be heard, reopen the hearing for the reception of further evidence. The application shall show to the satisfaction of the Commission that the additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence at the hearing. The Commission may hear the additional evidence or may refer the proceeding to the Administrative Law Judge for the taking of the additional evidence.

§ 10.108 Settlements.

(a) *When offers may be made.* Parties may at any time during the course of the proceeding propose offers of settlement. All offers of settlement shall be in writing.